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April 7, 2022

Sent via email: rhayagreev@losaltosca.gov

Radha Hayagreev
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City of Los Altos, Planning Division
1 North San Antonio Road
Los Altos, CA 94022

**Re: 95 1st Street, Los Altos
State Density Bonus Law Submittal**

Dear Ms. Hayagreev,

This density bonus law submittal is provided on behalf of Windy Hill Property Ventures ("Windy Hill") with regard to the proposed mixed-use project located at 95 1st Street in Los Altos, APN 167-39-13 ("Project"). This letter is intended to document the application of State Density Bonus Law (Government Code Section 65915 et. seq.) to the Project in compliance with the City of Los Altos Density Bonus Report Submittal Requirements.

A. Project Summary Information and Density Bonus Request

The Project site, which is 22,352 square feet, is zoned commercial downtown/multiple family (CD/R3) and is designated downtown commercial (DC) in the general plan. The CD/R3 zoning district does not identify density requirements. The general plan emphasizes increasing economic vitality and creating residential opportunities, including affordable housing in the downtown, and encourages residential uses at the maximum densities above the ground floor. The Project is consistent with the general plan in that it increases economic vitality by providing office space along with providing 15 residential units above the ground floor, of which three will be affordable.

The Project is proposing a total of 15 units and is not seeking a density bonus. The proposal includes providing 20 percent or three units as affordable to very-low income households. This would satisfy (and exceed) the City of Los Altos’ inclusionary requirement to provide 20 percent of the units for low-income households or 15 percent as affordable to very-low income households.

Project Summary Table

	Allowed	Proposed
Zoning Density	-	15
General Plan Density	-	15
Percent Affordable		
Low Income	20	0
Very-Low Income	15	20
Density Bonus Percentage	50	0
Bonus Units	-	0
Total Project Units	-	15
Resulting Density (units/acre)	-	30

The Project includes nine studios, five one-bedroom units and one two-bedroom unit. The affordable units would be a mix of studio and one-bedroom units. The location of the market rate and affordable units is shown in the plan set submitted concurrently with this letter.

The property is currently developed with office. There is no residential on-site and has been no residential on site in the previous five years. Thus, there are no applicable recorded covenants, ordinances or laws restricting rents because there are no residential units to restrict. No land donation is proposed with the Project.

B. Requested Concessions

By providing 20 percent of the units as affordable to very-low income households, the Project is entitled to three concessions. Government Code Sections 65915(d) provides applicants three incentives for projects that include at least 15 percent for very-low income households. A concession is defined as a reduction in a site development standard or a modification of a zoning code requirement or architectural design requirement that results in identifiable and actual cost reductions to provide for affordable housing costs. Government Code Section 65915(k). Concessions are intended to assist in lowering the cost to build a project that includes affordable housing and are presumed to result in cost reductions. *Bankers Hill v. City of San Diego* (2022) 74 Cal.App.5th 755. Each concession contributes to affordable housing costs by allowing fixed hard and soft costs to be spread across the additional square footage.

Concession 1: Increase in height. Los Altos Municipal Code Section 14.52.100 provides that no mixed-use structure shall exceed 30 feet in height and that mixed-use

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projects with ground floor commercial shall provide a ground floor minimum interior ceiling height of 12 feet. Windy Hill is requesting a concession to modify this code section regarding height of structures. Specifically, the Project proposes a 22-foot increase in height, with a one-foot reduction in ground floor height, for an overall height of 52-feet. This proposal lowers the height of the building by more than 10 feet from the preliminary plan previously reviewed by the Planning Commission. Modification of this code section allows the project to physically include the residential units on the fourth floor and assists in lowering the cost to build a project.

Concession 2: Modify vertical articulation. Los Altos Municipal Code Section 14.52.110.A.2 regarding vertical articulation provides that when a building façade exceeds 75 feet in length along a right-of-way, it must be separated into primary façade bays no greater than 50 feet and secondary façade bays defined by a recess a minimum three feet deep and 10 feet wide. It also requires the building to include at least one ground-floor entrance every 25 feet. Windy Hill is requesting a concession to modify this code section regarding vertical articulation. The Project includes vertical articulation but deviates slightly from the specific standard. The requested modification allows for vertical articulation, highlights the three distinct use and entries of the building, and maintains the security necessary for an office tenant. In this case, functionality is a physical constraint and the office could not be constructed with the required number entries. Modification of vertical articulation reduces unnecessary entries and reduces the cost to build the Project.

Notwithstanding the above, Windy Hill encourages the City to consider the use of Municipal Code Section 14.52.160 which allows exceptions to development or building standards, which includes exceptions to Municipal Code Section 14.52.110, design control. Using an exception would be consistent with the purposes of the zoning district to allow latitude for creative design and architectural variety. See Municipal Code Section 14.52.020(C). The City can approve exceptions to design control upon the making of certain findings, including that the project will not be detrimental, will result in public benefits to the downtown and the project is consistent with the general plan. See Municipal Code Section 14.52.160. As noted in the project description letter submitted with this application, this mixed-use project with 15 housing units is not only providing needed housing but is also providing public access to the parking garage evenings and weekends as a public benefit. Further, the Project is consistent with the general plan. The Project promotes economic vibrance and excellence in design and develops housing, including affordable housing, above the ground floor. Thus, although modification of the vertical articulation design standard is described herein as a concession, there is legal authority for the City to determine these are appropriate exceptions that maintain flexibility to accommodate changing trends in housing and office uses.

Concession 3: Reduction in parking. Los Altos Municipal Code Section 14.74.100 would require 121 parking spaces, inclusive of 105 spaces for the office use and 16 spaces for the residential (as reduced by state law residential parking ratios). The Project proposes to provide the required residential parking, but requests as a concession a

reduction in the required number of office parking spaces to 66 spaces. This concession helps reduce the cost to build the Project.

C. Requested Waivers

A waiver is a modification of a development standard that would have the effect of physically precluding construction of a project at the density or with the concessions permitted. Government Code Section 65915(e). If the Project is not built, it goes without saying that housing units for lower-income households would not be built and the purpose of the density bonus law to encourage such development would not be achieved. *Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329. Without the waivers identified below, the physical construction of the Project at the density and with the concessions requested would be precluded.

Waiver 1: Modify building massing. Los Altos Municipal Code Section 14.52.110.A.1 requires the uppermost story of buildings over three stories be embedded in a sloped roof form. Fully embedding the 4th story of the project in a sloped roof form would make physical construction of the residential units that are located on the 4th floor impossible and would reduce the number of units that could be constructed. Instead, the Project proposes to partially embed the 4th level units in a mansard roof.

Waiver 1: Modify floor-to-ceiling height. Los Altos Municipal Code Section 14.52.110.B.3 provides that a non-residential ground floor should be a minimum of 24 inches taller than typical upper floor floor-to-ceiling heights. The Project is proposing as a concession a height of 52 feet. Compliance with this requirement would increase the overall height by two feet. Thus, to physically construct the Project with that concession requires a small reduction in this requirement.

D. Requested Parking Reduction

Los Altos Municipal Code Section 14.74.080 identifies the required number of spaces for residential uses in the CD/R3 zoning district. These requirements are identified in the Parking Summary Table below. State Density Bonus Law, Government Code Section 65915(p) provides a reduction in the parking requirement by right to one space for studio and one bedrooms and one and one-half spaces for two bedroom units. This is inclusive of parking for persons with a disability and guests. The Project is utilizing the state law parking ratios to reduce the number of residential spaces.

Parking Summary Table

	Allowed	Proposed
Studio	13	9
One-Bedroom (1.5 spaces/unit)	7	5
Two-Bedroom (2 spaces/unit)	2	2
Visitor (1 space/4units) ¹	3	0
Total	25	16

E. Childcare, Condominium Conversion, Fee Payment and Other

The Project is not proposing any childcare. The Project is not a condominium conversion. The Project is currently proposing on-site construction of affordable units and not payment of a fee.

As the Project moves through the entitlement process, the above information may change in response to staff, decision maker and community input and, therefore, this letter may be modified from time to time to change the identified concessions and waivers.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Leigh Prince

Leigh F. Prince

cc: Lisa Ring (via email: lising88@gmail.com)
Michael Field (via email: mike@windyhillpv.com)
Evan Sockalosky (via email: evans@arctecinc.com)
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¹ Mixed use projects may substitute nonresidential parking spaces for visitor use in-lieu of providing dedicated visitor parking spaces, subject to approval of the commission and council.